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RUEHBR/AMEMBASSY BRASILIA 7945  
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RUEHCV/AMEMBASSY CARACAS 2424  
RUEHPE/AMEMBASSY LIMA 2550  
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RUEHMN/AMEMBASSY MONTEVIDEO 4563  
RUEHQT/AMEMBASSY QUITO 5063  
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C O N F I D E N T I A L LA PAZ 001150

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E.O. 12958: DECL: 03/30/2017  
TAGS: [ECON](#) [PGOV](#) [PREL](#) [BL](#)  
SUBJECT: NEGATIVE PR MAY BLOCK COMMUNITARIAN JUSTICE  
PROPOSAL

REF: LA PAZ 18

Classified By: Ecopol Counselor Andrew Erickson for reasons 1.4 (b) and (d).

¶1. (C) Summary: On January 1, President Morales proposed a law to create a formal, legally binding communitarian justice system (reftel). The Constituent Assembly has yet to debate the communitarian justice law, but there is already significant opposition to the proposal. Although the death penalty is illegal under indigenous law, just as in the formal justice system, lynchings and other aberrations have generated heated public criticism of communitarian justice. As currently formulated, the GOB's proposal contains numerous fatal flaws and is unlikely to pass the Assembly, at least in its current form. End summary.

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PARALLEL LEGAL SYSTEM  
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¶2. (U) On January 1, President Morales proposed a law to create a formal, legally binding communitarian justice system (reftel). As approximately 62 percent of Bolivians are indigenous, much of the population proscribes to their own set of societal standards. In addition, much of the indigenous population live in remote rural areas where there is little government presence, leaving indigenous communities to create and enforce their own laws. Although indigenous communities were practicing communitarian justice long before Bolivia's independence, the GOB is just now working to define the coexistence of the two legal systems.

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ABUSES OF THE SYSTEM  
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¶3. (C) The Constituent Assembly has yet to debate the proposed communitarian justice law, but there is already significant opposition to the proposal. Most importantly, the proposal does not address how abuses under the communitarian justice system will be handled. The Justice Ministry's indigenous advisor, Miriam Campos, told poloffs that reported human rights violations and vigilantism have

created a public outcry against communitarian justice and may prevent the proposal from passing. In a separate meeting, Alvaro Guzman, head of the Public Defender's Office, told poloffs that he was skeptical of the proposed expansion of communitarian justice. Guzman said that under communitarian justice, "one's right to a proper defense and appeal is questionable, and due process is not properly defined." He thought the proposal would pass, but with many modifications.

¶4. (U) Although the death penalty is illegal under indigenous law, just as in the formal system, lynchings and other aberrations have generated heated public criticism of communitarian justice. Several lynchings in indigenous communities, including in El Alto, have received press attention in recent months. In December, a woman accused of infidelity was killed in the Potosi Department. In another community earlier this year, six juveniles were found guilty of stealing 20 llamas and 100 sheep and were lynched. Two lynchings took place in El Alto in January, and three more were attempted between April 10 and 11. Abuses of the community justice system are nothing new, but increased press coverage has encouraged the public to speak out against lynchings in order to expose violations.

¶5. (C) Comment: The GOB's efforts to integrate indigenous traditions into the formal justice system have until now been poorly thought out, and we believe the proposal is unlikely to pass the Assembly, at least in its current form. Specifying how human rights violations would be handled would improve the proposal, but would also place a greater burden on the GOB to effectively investigate and prevent these abuses. Several reputable polls have demonstrated that indigenous and rural communities do not favor a formalized

alternative justice mechanism, as proposed by the GOB, but rather a government justice system that is present and that works. In this regard, and is so often the case with this administration, GOB focus on communitarian justice is unfortunately a distraction from the real problem: an absent, antiquated, and ineffective judiciary in need of both resources and reform. End comment.  
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